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<p style="text-align: right;">Page 93</p> <p>1 just takes whatever is on the other page and 2 tallies it and puts it into a summary form 3 and gives you a general overview.</p> <p>4 Q Could it affect -- I mean could 5 it affect an employee's pay?</p> <p>6 A Not that I'm aware of. Not -- 7 any classification where somebody is meeting 8 or exceeding the standard is not going to 9 affect pay. I don't know what it would do 10 with this does not meet standards area.</p> <p>11 Q Could it affect an employee's 12 potential for promotion?</p> <p>13 A That would depend on the weight 14 somebody put on it, you know, when they were 15 looking at it.</p> <p>16 Q So it could play a factor?</p> <p>17 A It could.</p> <p>18 Q I mean, if you were going to look 19 at a employee's record for promotion, would 20 you go back and look at the performance 21 appraisal?</p> <p>22 A Not necessarily. In terms of 23 going back and pulling a whole list of</p>	<p style="text-align: right;">Page 95</p> <p>1 We know it was sometime in late 2003 Mickey 2 Groggel was selected for this position. The 3 date we have here is December 10th, 2003. 4 Did you have any discussions with anyone 5 about Mickey Groggel being a good person for 6 this position?</p> <p>7 A With that group of people, Mickey 8 included, and all the people that were 9 applying, most of those people were really 10 very well known already. Their work history 11 was well known, what their job assignments 12 were well known. So going back and finding 13 out information probably wasn't part of that 14 process. It was probably based on whatever 15 we had in front of us and whatever our 16 knowledge was of those people.</p> <p>17 Q Okay. Let me go back to the 18 question. Do you remember discussing Mickey 19 Groggel for this position with anyone?</p> <p>20 A I don't remember it.</p> <p>21 Q Don't remember one way or the 22 other?</p> <p>23 A Don't remember one way or the</p>
<p style="text-align: right;">Page 94</p> <p>1 somebody's ratings, not necessarily.</p> <p>2 Q So, I mean, it sounds to me like 3 you're trying to say they're not very 4 important?</p> <p>5 A No. What I'm saying is if you're 6 looking at a promotion or if you're looking 7 at a job that's different than whatever that 8 person has done before, you might be looking 9 at a different skill set than what an older 10 evaluation might tell you.</p> <p>11 Now, if you know that employee, you're 12 going to know whether they're coming to work 13 on time and whether they're, you know, 14 complying with rules and regulations and 15 that sort of things. If it's somebody 16 you've never met before, you know, then that 17 kind of information might -- you might not 18 know that already.</p> <p>19 Q So performance appraisals are 20 important to employees, correct?</p> <p>21 A I would think so, yeah.</p> <p>22 Q Let me -- I'm going to jump back 23 talking about this CSS III position again.</p>	<p style="text-align: right;">Page 96</p> <p>1 other.</p> <p>2 Q Could have, you just don't 3 remember?</p> <p>4 A Could have, don't remember. 5 Could have discussed any of the people on 6 that list.</p> <p>7 Q Who do you think the best person 8 was for that position?</p> <p>9 A Well, since Mickey was selected, 10 I guess I would think it was her. I think 11 she had the -- she had the exact skill set 12 that we were trying to move the department 13 toward at that time, with background in 14 education testing. But I think I said in 15 the memo even that there were some really, 16 really good people in that interview pool.</p> <p>17 Q At that time period, who worked 18 more closely with Winifred, you or 19 Ms. London?</p> <p>20 A I guess we both did. It was a 21 very small office. Everybody, you know, 22 worked with everybody else. We were all 23 very -- in very close proximity to each</p>

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<p>1 other.</p> <p>2 Q On this Plaintiff's Exhibit 11,</p> <p>3 you didn't grade Mickey the highest, did</p> <p>4 you?</p> <p>5 A No, I didn't.</p> <p>6 Q You graded Chris Allen?</p> <p>7 A Kathi Allen.</p> <p>8 Q Kathi Allen the highest with a</p> <p>9 23, correct?</p> <p>10 A Uh-huh.</p> <p>11 Q Next you graded Celestine</p> <p>12 Chappell with a 22, correct?</p> <p>13 A Correct.</p> <p>14 Q And then Mickey Groggel with a</p> <p>15 21, correct?</p> <p>16 A Correct.</p> <p>17 Q And all three of those are white</p> <p>18 employees we've established. You graded</p> <p>19 Ms. Blackledge with a 17, who would be next;</p> <p>20 Ms. Williams with a 12; Mr. Packer with a 8;</p> <p>21 and Ms. Ezell with a 16.</p> <p>22 A Uh-huh.</p> <p>23 Q Jerryln London graded</p>	<p>1 much, it's clearly the panel's subjective</p> <p>2 thoughts on what the grades were, correct?</p> <p>3 MS. TARVER: Object to the form.</p> <p>4 A I can't answer whether or not</p> <p>5 it's their subjective thoughts or how</p> <p>6 objective the criteria were at that time.</p> <p>7 Q But for you to grade</p> <p>8 Ms. Blackledge with a 17 and for Ms. London</p> <p>9 to grade her with a 30 --</p> <p>10 A We, obviously, had a difference</p> <p>11 of view.</p> <p>12 Q A difference of opinion?</p> <p>13 A Okay.</p> <p>14 Q Different view. Your subjective</p> <p>15 belief was that one candidate was better</p> <p>16 than the other, correct?</p> <p>17 MS. TARVER: Object to the form.</p> <p>18 A Okay.</p> <p>19 Q You can answer. Is that yes?</p> <p>20 A Yes.</p> <p>21 Q We have seven candidates on this</p> <p>22 list: Three white candidates and four black</p> <p>23 candidates. You graded the three candidates</p>
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<p>1 Ms. Blackledge with a 30, which I don't know</p> <p>2 if that's the highest you can get but it</p> <p>3 appears to be very high. Ms. London graded</p> <p>4 Ms. Groggel with an 18. So she clearly felt</p> <p>5 that Ms. Blackledge was better suited for</p> <p>6 that position from what it looks like on</p> <p>7 this paper, correct?</p> <p>8 MS. TARVER: Object to the form.</p> <p>9 Q Sorry, what was your answer?</p> <p>10 MS. TARVER: Same objection.</p> <p>11 Q We got your objection.</p> <p>12 A The numbers would suggest that.</p> <p>13 Q And the numbers apparently played</p> <p>14 some factor in this, correct?</p> <p>15 A Yes. And we never determined</p> <p>16 exactly what these numbers were, whether it</p> <p>17 was just the interview or whether it was the</p> <p>18 over all package.</p> <p>19 Q But we knowed it played some</p> <p>20 factor?</p> <p>21 A That's a factor somewhere in all</p> <p>22 this.</p> <p>23 Q And because the numbers vary so</p>	<p>1 the highest and the four black candidates</p> <p>2 the lowest, correct?</p> <p>3 A Correct.</p> <p>4 Q Is it possible that any</p> <p>5 subjective bias played a role in your</p> <p>6 decision?</p> <p>7 MS. TARVER: Object to the form.</p> <p>8 A No.</p> <p>9 Q Do you find it odd that you</p> <p>10 graded the four black employees the lowest</p> <p>11 compared to the white employees?</p> <p>12 A No, not when you know everybody.</p> <p>13 Q Do you want a break or anything?</p> <p>14 A No.</p> <p>15 (Whereupon Plaintiff's</p> <p>16 Exhibit Number 16 was marked and</p> <p>17 attached to the deposition.)</p> <p>18 BY MR. WILSON</p> <p>19 Q I'll take one here shortly. I'm</p> <p>20 going to enter as Plaintiff's Exhibit 16.</p> <p>21 This is a stack of looks like about 30</p> <p>22 pages.</p> <p>23 MS. TARVER: All this is one</p>

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1 exhibit?	1 from Personnel of the results of
2 MR. WILSON: Yeah.	2 the interview process is why
3 MS. TARVER: Sixteen?	3 Ms. Stuardi didn't know about what
4 MR. WILSON: Yeah.	4 this was and hadn't seen it. This
5 BY MR. WILSON	5 is significant because a large
6 Q Let me ask if you recognize these	6 part of why I believe the EEOC
7 documents. If you can, tell me what they	7 made a finding in this case is the
8 appear to be.	8 fact that we could not produce the
9 A Okay. They look like rating	9 official record of the interview
10 sheets.	10 process.
11 Q Looks like rating sheets for the	11 MR. WILSON: Let me object to
12 CSS III position?	12 that statement about your opinion
13 A That's what it looks like.	13 about why the EEOC found cause.
14 Q And is this what you were	14 MS. TARVER: Fine.
15 referring to earlier about something you	15 MR. WILSON: I don't believe that
16 would fill out during the interview	16 should be asserted right here.
17 selection process?	17 MS. TARVER: That's fine. That's
18 A Uh-huh.	18 my opinion and you're certainly
19 Q Yes?	19 subject to your objection. But,
20 A Yes.	20 for the record, the Department of
21 Q And does this kind of refresh	21 Mental Health in its production to
22 your memory about how you get this score	22 the EEOC did not have these
23 here on Plaintiff's Exhibit 11?	23 records available and, therefore,
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1 A Yes.	1 was unable to give the complete
2 Q So if we match up -- if you will	2 picture that we're normally able
3 flip to --	3 to give in a case like this. So
4 MS. TARVER: Hang on a minute.	4 the department will be propounding
5 For the record, these records that	5 discovery related to where these
6 make up Plaintiff's Exhibit 16	6 documents came from and these
7 that Ms. Stuardi has just been	7 documents had not been yet
8 provided are not records that came	8 produced to the department as a
9 from the Department of Mental	9 part of our request for
10 Health, and, in fact, have been	10 documentation from Ms. Blackledge.
11 the subject of some concern	11 MR. WILSON: Okay. And I will
12 because the official record of	12 just say that these documents were
13 this particular interview was	13 asked for in our discovery
14 lost. And that is why the earlier	14 requests. Whether or not they
15 reference to Plaintiff's	15 were provided Friday when I got
16 Exhibit -- I'm looking for 11,	16 all the documents, I'm not sure.
17 Josh.	17 I know they were asked for, and
18 MR. WILSON: I'm sorry.	18 whether or not there's in any in
19 MS. TARVER: Plaintiff's Exhibit	19 there or not, I'm not sure. I
20 11 that has been presented to	20 thought there were some in there,
21 Ms. Stuardi, she did not recognize	21 but they were asked for by the
22 seeing it, which I represent is a	22 plaintiffs. And one reason why
23 handwritten chart by John Owens	23 they were not given yet is because

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1 they were asked for and we would 2 naturally assume that they would 3 be in the possession of the 4 department. 5 MS. TARVER: Well, one of the 6 things that was provided in the 7 production was the department's 8 response to the EEOC, which was 9 supplemented, I believe, on more 10 than one occasion, and a large 11 part of that record demonstrates 12 that we did not have the documents 13 that are being referred to in 14 Plaintiff's 16. So with that, can 15 we take a break and copy these so 16 we can have a copy for our records 17 before you start going down this 18 road? 19 MR. WILSON: Sure. 20 (Whereupon, a short break was taken.) 21 MR. WILSON: Were we finished 22 with our conversation? 23 MS. TARVER: Let me say at this	1 in the documents we requested and 2 whether or not the department had 3 possession of them or not, I'm 4 unaware of. So -- 5 MS. TARVER: Okay. I will just 6 note that they are not Bates 7 stamped in accord with over 4,000 8 pages of documents we presented to 9 you. 10 MR. WILSON: Okay. 11 MS. TARVER: We have supplemented 12 the record and we have attempted 13 to identify in some way the record 14 since we provided you those over 15 4,000 pages of documents, and we 16 will continue to identify things 17 that are not Bates stamped in a 18 way we all can identify what was 19 given and what wasn't. 20 BY MR. WILSON 21 Q Ms. Stuardi, back to this -- the 22 documents that were handed and identified, 23 let's look at, for example, the second page
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1 point I am not objecting to 2 Plaintiff's Exhibit 16. I just 3 want it clear for the record that 4 prior to this proceeding, the 5 department from the time the 6 interview was completed and the 7 records handed off to the Brewer 8 Personnel Department, which we 9 will get at in further 10 depositions, until now, we have 11 not had in our possession the 12 documents that Ms. Stuardi has 13 been presented and it has been a 14 concern of ours related to the 15 charges from the EEOC in this 16 case. 17 MR. WILSON: And, for the record, 18 those were documents we had 19 requested. I'm unaware -- I was 20 unaware of whether or not they 21 were in the production you gave 22 us. However -- sorry, lost my 23 train of thought. But they were	1 of those documents. And this is dated 2 December 5th, 2003. 3 A Uh-huh. 4 Q And interviewer name is your 5 name. Is this your handwriting? 6 A Yes. 7 Q Okay. And if we look back on 8 Plaintiff's Exhibit 11, the score listed on 9 that handwritten note, Plaintiff's Exhibit 10 11, is 21? 11 A Right. 12 Q And the score total here at the 13 bottom of Plaintiff's Exhibit 16, page 2, is 14 also 21, correct? 15 A Correct. 16 Q And so does it make sense that -- 17 can we tell now that the scores listed on 18 that handwritten note were based solely on 19 the interview process? 20 MS. TARVER: Object to the form, 21 but you can answer. 22 A That's what it appears, yes. 23 Q So those scores did not take into